

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YANG FENG ZHAO,

Plaintiff,

-against-

CITY OF NEW YORK, DETECTIVE NGA
CHEUNG NG, DETECTIVE BILLY MILAN,
“JOHN DOE #1” and “JOHN DOE #2,”

**ANSWER OF DEFENDANT
CITY OF NEW YORK**

07 CV 3636 (LAK)

JURY TRIAL DEMANDED

Defendants.

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Defendant City of New York,¹ for its answer to the complaint, respectfully
alleges, upon information and belief, as follows:

1. Denies knowledge or information sufficient to form a belief as to
the truth of the allegations set forth in paragraph “1” of the complaint.
2. Denies the allegations set forth in paragraph “2” of the complaint.
3. Denies the allegations set forth in paragraph “3” of the complaint.
4. Denies the allegations set forth in paragraph “4” of the complaint.
5. Denies the allegations set forth in paragraph “5” of the complaint.
6. Denies knowledge or information sufficient to form a belief as to
the truth of the allegations set forth in paragraph “6” of the complaint.
7. Denies the allegations set forth in paragraph “7” of the complaint,
except admits that plaintiff purports to bring this action as stated therein.

¹ Upon information and belief, neither Detective Nga Cheung Ng nor Detective William Milan have been served with process in this case.

8. Denies the allegations set forth in paragraph “8” of the complaint, except admits that plaintiff purports to invoke this Court’s jurisdiction as stated therein.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the complaint.

10. Denies the allegations set forth in paragraph “10” of the complaint, except admits that the City of New York is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

11. Denies the allegations set forth in paragraph “11” of the complaint, except admits that Nga Cheung Ng and William Milan are currently employed by the New York City Police Department.

12. Denies knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “12” of the complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth the allegations set forth in paragraph “13” of the complaint.

14. Denies the allegations set forth in paragraph “14” of the complaint, except admits that a document purporting to be a Notice of Claim was received by the City of New York Comptroller’s Office on or about November 27, 2006.

15. Denies the allegations set forth in paragraph “15” of the complaint.

16. Denies the allegations set forth in paragraph “16” of the complaint, except admits that a 50-H hearing was conducted on or about January 19, 2007.

17. Denies the allegations set forth in paragraph “17”, except admits that the case has not been settled.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “18” of the complaint.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “19” of the complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “20” of the complaint.

21. Denies the allegations set forth in paragraph “21” of the complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “22” of the complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “23” of the complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “24” of the complaint.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “25” of the complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “26” of the complaint.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “27” of the complaint.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “28” of the complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “29” of the complaint.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “30” of the complaint.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “31” of the complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “32” of the complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “33” of the complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “34” of the complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “35” of the complaint.

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “36” of the complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “37” of the complaint.

38. Denies the allegations set forth in paragraph “38” of the complaint, except admits that plaintiff was arrested on or about October 24, 2005.

39. Denies the allegations set forth in paragraph “39” of the complaint.

40. Denies the allegations set forth in paragraph “40” of the complaint.

41. Denies the allegations set forth in paragraph “41” of the complaint.

42. Denies the allegations set forth in paragraph “42” of the complaint.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “43” of the complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “44” of the complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “45” of the complaint.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “46” of the complaint.

47. Denies the allegations set forth in paragraph “47” of the complaint.

48. Denies the allegations set forth in paragraph “48” of the complaint.

49. Denies the allegations set forth in paragraph “49” of the complaint.

50. Denies the allegations set forth in paragraph “50” of the complaint.

51. Denies the allegations set forth in paragraph “51” of the complaint.

52. Denies the allegations set forth in paragraph “52” of the complaint.

53. Denies the allegations set forth in paragraph “53” of the complaint.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “54” of the complaint.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “55” of the complaint.

56. Denies the allegations set forth in paragraph “56” of the complaint.

57. Denies the allegations set forth in paragraph “57” of the complaint.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “58” of the complaint, and respectfully

refers the Court to the criminal court complaint underlying this action for a complete and accurate statement of its contents.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "59" of the complaint.

60. Denies the allegations set forth in paragraph "60" of the complaint.

61. Denies the allegations set forth in paragraph "61" of the complaint, except admits that plaintiff was indicted by a grand jury.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "62" of the complaint.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "63" of the complaint, except admits that the indictment was dismissed.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "64" of the complaint.

65. Denies the allegations set forth in paragraph "65" of the complaint.

66. Denies the allegations set forth in paragraph "66" of the complaint.

67. Denies the allegations set forth in paragraph "67" of the complaint.

68. Denies the allegations set forth in paragraph "68" of the complaint.

69. Denies the allegations set forth in paragraph "69" of the complaint.

70. Denies the allegations set forth in paragraph "70" of the complaint.

71. Denies the allegations set forth in paragraph "71" of the complaint.

72. Denies the allegations set forth in paragraph "72" of the complaint.

73. Denies the allegations set forth in paragraph "73" of the complaint.

74. Denies the allegations set forth in paragraph "74" of the complaint.
75. Denies the allegations set forth in paragraph "75" of the complaint.
76. Denies the allegations set forth in paragraph "76" of the complaint.
77. Denies the allegations set forth in paragraph "77" of the complaint.
78. In response to the allegations set forth in paragraph "78" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "77" of this answer as if fully set forth herein.
79. Denies the allegations set forth in paragraph "79" of the complaint.
80. Denies the allegations set forth in paragraph "80" of the complaint.
81. Denies the allegations set forth in paragraph "81" of the complaint.
82. Denies the allegations set forth in paragraph "82" of the complaint.
83. Denies the allegations set forth in paragraph "83" of the complaint.
84. Denies the allegations set forth in paragraph "84" of the complaint.
85. Denies the allegations set forth in paragraph "85" of the complaint.
86. In response to the allegations set forth in paragraph "86" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "85" of this answer as if fully set forth herein.
87. Denies the allegations set forth in paragraph "87" of the complaint.
88. Denies the allegations set forth in paragraph "88" of the complaint, except admits that the indictment was dismissed.
89. Denies the allegations set forth in paragraph "89" of the complaint.
90. Denies the allegations set forth in paragraph "90" of the complaint.
91. Denies the allegations set forth in paragraph "91" of the complaint.

92. Denies the allegations set forth in paragraph “92” of the complaint.
93. Denies the allegations set forth in paragraph “93” of the complaint.
94. Denies the allegations set forth in paragraph “94” of the complaint.
95. Denies the allegations set forth in paragraph “95” of the complaint.
96. Denies the allegations set forth in paragraph “96” of the complaint.
97. Denies the allegations set forth in paragraph “97” of the complaint.
98. In response to the allegations set forth in paragraph “98” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “97” of this answer as if fully set forth herein.
99. Denies the allegations set forth in paragraph “99” of the complaint.
100. Denies the allegations set forth in paragraph “100” of the complaint.
101. Denies the allegations set forth in paragraph “101” of the complaint.
102. Denies the allegations set forth in paragraph “102” of the complaint.
103. Denies the allegations set forth in paragraph “103” of the complaint.
104. Denies the allegations set forth in paragraph “104” of the complaint.
105. In response to the allegations set forth in paragraph “105” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “104” of this answer as if fully set forth herein.

106. Denies the allegations set forth in paragraph “106” of the complaint.

107. Denies the allegations set forth in paragraph “107” of the complaint.

108. Denies the allegations set forth in paragraph “108” of the complaint.

109. Denies the allegations set forth in paragraph “109” of the complaint.

110. Denies the allegations set forth in paragraph “110” of the complaint.

111. Denies the allegations set forth in paragraph “111” of the complaint.

112. Denies the allegations set forth in paragraph “112” of the complaint.

113. In response to the allegations set forth in paragraph “113” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “112” of this answer as if fully set forth herein.

114. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “114” of the complaint, except admits that plaintiff was arrested on or about October 24, 2005.

115. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “115” of the complaint.

116. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “116” of the complaint.

117. Denies the allegations set forth in paragraph “117” of the complaint.

118. Denies the allegations set forth in paragraph “118” of the complaint.

119. Denies the allegations set forth in paragraph “119” of the complaint.

120. Denies the allegations set forth in paragraph “120” of the complaint.

121. In response to the allegations set forth in paragraph “121” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “120” of this answer as if fully set forth herein.

122. Denies the allegations set forth in paragraph “122” of the complaint.

123. Denies the allegations set forth in paragraph “123” of the complaint.

124. Denies the allegations set forth in paragraph “124” of the complaint.

125. Denies the allegations set forth in paragraph “125” of the complaint.

126. Denies the allegations set forth in paragraph “126” of the complaint.

127. Denies the allegations set forth in paragraph "127" of the complaint.

128. In response to the allegations set forth in paragraph "128" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "127" of this answer as if fully set forth herein.

129. Denies the allegations set forth in paragraph "129" of the complaint.

130. Denies the allegations set forth in paragraph "130" of the complaint.

131. Denies the allegations set forth in paragraph "131" of the complaint.

132. In response to the allegations set forth in paragraph "132" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "131" of this answer as if fully set forth herein.

133. Denies the allegations set forth in paragraph "133" of the complaint.

134. Denies the allegations set forth in paragraph "134" of the complaint.

135. Denies the allegations set forth in paragraph "135" of the complaint.

136. Denies the allegations set forth in paragraph "136" of the complaint.

137. Denies the allegations set forth in paragraph “137” of the complaint.

138. In response to the allegations set forth in paragraph “138” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “137” of this answer as if fully set forth herein.

139. Denies the allegations set forth in paragraph “137” of the complaint.

140. Denies the allegations set forth in paragraph “137” of the complaint.

141. Denies the allegations set forth in paragraph “137” of the complaint.

142. In response to the allegations set forth in paragraph “142” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “141” of this answer as if fully set forth herein.

143. Denies the allegations set forth in paragraph “143” of the complaint.

144. Denies the allegations set forth in paragraph “144” of the complaint.

145. Denies the allegations set forth in paragraph “145” of the complaint.

146. Denies the allegations set forth in paragraph “146” of the complaint.

147. Denies the allegations set forth in paragraph "147" of the complaint.

148. Denies the allegations set forth in paragraph "148" of the complaint.

149. In response to the allegations set forth in paragraph "149" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "148" of this answer as if fully set forth herein.

150. Denies the allegations set forth in paragraph "150" of the complaint.

151. Denies the allegations set forth in paragraph "151" of the complaint.

152. Denies the allegations set forth in paragraph "152" of the complaint.

153. Denies the allegations set forth in paragraph "153" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

154. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

155. There was probable cause for plaintiff's arrest, detention, and prosecution.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

156. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has it violated any act of Congress providing for the protection of civil rights.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

157. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of non-parties and was not the proximate result of any act of defendant.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

158. At all times relevant to the acts alleged in the complaint, defendant acted reasonably and properly in the lawful exercise of its discretion. Therefore, it is entitled to governmental immunity from liability.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

159. Punitive damages are not recoverable against the City of New York.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

160. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

Dated: New York, New York
July 2, 2007

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City of New York
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By: /s/
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